

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 12814 of 2004

Between:

Ghanta Tirupathi Rayudu, S/o Ghanta Krishna Rao,
carrying business in the name and style of Rayudu Tiffin Centre & Biryani
House, at Premises bearing No.13-1-81/2/1,
Plot No.162, Motinagar, Kukatpally Municipality, Hyderabad

..... PETITIONER

AND

Kukatpally Municipal Council, represented by its Commissioner,
Kukatpally, Ranga Reddy District

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction more particularly in the nature of Writ of Mandamus declaring the proceedings of the respondent in Notice No.F1/S1-5/1394/2004, dated 14-7-2004 as illegal and void.

Counsel for the Petitioner:MR.A.RAMANARAYANA

Counsel for the Respondent: MR.R.TIMMA REDDY

The Court, at the stage of admission, made the following :

ORDER

Heard the learned counsel for the petitioner and learned Standing Counsel for the respondent-Municipality.

By means of this writ petition filed under Article 226 of Constitution of India, petitioner challenges the notice issued by the respondent-Municipality dated 14.7.2004, as arbitrary, illegal and for setting aside the same.

It is not in dispute that the petitioner is running a Tiffin Centre-cum-Biryani point at premises bearing No.13-1-81/2/1, Plot No.162, Motinagar, Kukatpally. After expiry of the licence granted in favour of the petitioner, when he was served with a notice dated 11.9.2002 calling upon to close the business on the ground that there is objection from the neighbours, earlier, he filed a writ petition being W.P.No.17947 of 2002 questioning the said notice as illegal alleging that the notice was issued even while his application dated 25.3.2002 seeking renewal is pending. This Court disposed of the said writ petition holding that when the application for renewal is pending, directing closure of the business on the ground of absence of licence does not appear to be reasonable, and accordingly, the impugned notice therein was set aside and directed the respondent-Municipality to consider the application of the petitioner for renewal in accordance with law. Thereafter, the impugned notice dated 14.7.2004 was issued directing the petitioner to stop the business within 7 days stating that without obtaining municipal licence under Section 263 and 366 of A.P. Municipalities Act, 1965, the petitioner cannot run such business and it is also stated that the business is also causing nuisance and inconvenience to the residents of the

locality. Challenging the same, the present writ petition is filed. It is contended by the learned counsel for the petitioner that without disposing of the renewal application, the issuance of the impugned notice is arbitrary and illegal.

The respondent-Municipality filed a counter affidavit denying the averments made in the writ petition. It is stated that the licence granted to the petitioner initially was to expire on 31.3.2002 and the petitioner has to apply for renewal within 30 days prior to such expiry. Since the petitioner was running his business in a shed under the electric transformer and in tot-lot of the apartment, on receipt of the complaints, the said structures were demolished on 13.7.2002 i.e. after the expiry of the alleged licence period 31.3.2002. It is stated that after disposal of the writ petition No.17947 of 2002, the petitioner neither complied with the requirements for extending the licence nor paid the requisite fee for renewal/fresh licence. Even after demolition of the shed on 13.7.2002, as the petitioner is continuing his business within the campus without obtaining any fresh or renewed licence, the impugned notice was issued. It is stated that since the time for renewal of the licence was also expired by 31.3.2002, any application filed for renewal after the said date, could not be considered. It is stated that since the petitioner failed to obey the impugned order, under a cover of panchanama dated 24.7.2004 the officials of the respondent-Municipality closed down the premises of the petitioner, and in view of the same, the petitioner cannot complain that he is entitled to do the business as long as his application for renewal is not disposed.

Since the application of the petitioner for renewal itself was for the period from 1.4.2002 to 31.3.2003 and on expiry of 31.3.2003 in the absence of renewal of licence for the subsequent period, the petitioner could have applied only for fresh licence. When such application has not been filed for fresh licence, the issuance of impugned notice cannot be said to be illegal and the same do not suffer from any infirmity. I see no reason to entertain the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

A. GOPAL REDDY. J.

10th November, 2004

tsr.

To

- 1 The Commissioner, Kukatpally Municipal Council, Kukatpally,
Ranga Reddy District
2. Two C.D. copies.